

SENATE No. 635

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to Creating a Statutory Housing Restriction and Providing Remedies Related To Statutory Housing. .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	Middlesex and Worcester
Kay Khan	11th Middlesex
Patricia D. Jehlen	Second Middlesex
Cleon H. Turner	1st Barnstable

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO CREATING A STATUTORY HOUSING RESTRICTION AND PROVIDING REMEDIES RELATED TO STATUTORY HOUSING. .

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 183 of the General Laws is hereby amended by adding the following new sections:

Section 17A. Statutory Form of Housing Restriction.

A deed, covenant or restriction in substance following the form entitled Deed with Statutory Housing Restriction or the form entitled Statutory Housing Restriction shall when duly executed have the force and effect of an affordable housing restriction as defined in section 31 of chapter 184, without limitation as to enforcement thereof as stated in section 32 of chapter 184, to the use of the holder and the holder's successors and assigns with statutory housing covenants, upon the statutory housing condition and with the statutory housing power to sell, as defined in the following sections 17B, 17C and 17D, to secure the performance of the statutory housing restriction and any obligation therein specified. The parties may insert in such restriction any other lawful agreement or condition reasonably related to the creation, maintenance and preservation of the premises as statutory housing premises.

Section 17B. Meaning of "Statutory Housing Covenants".

14 In a conveyance of real estate the words "statutory housing covenants" shall have the full force, meaning
15 and effect of the following words, and shall be applied and construed accordingly: "The grantor, for the
16 grantor and the grantor's heirs, executors, administrators, ~~and~~ successors and assigns, covenants with the
17 holder and its successors and assigns,

18 a) that the granted statutory housing premises are free from all encumbrances made by the
19 grantor,

20 b) that the grantor will, and the grantor's heirs, executors, administrators, successors and assigns
21 shall, warrant and defend the same to the holder and the holder's successors and assigns forever against
22 the lawful claims and demands of all persons claiming by, through or under the grantor, but against none
23 other;

24 c) that the grantor and the grantor's heirs, successors or assigns, during their respective
25 ownership of the statutory housing premises, will comply fully with the statutory housing
26 condition; and

27 d) that the grantor and the grantor's heirs, successors or assigns, in case a sale shall be
28 made under the statutory housing power to sell, will, upon request, execute, acknowledge and
29 deliver to the purchaser or purchasers a deed or deeds of release confirming such sale, and that
30 the holder and the holder's successors and assigns are appointed and constituted the attorney or
31 attorneys-in-fact irrevocable of the said grantor to execute and deliver to the said purchaser or
32 purchasers such deed or deeds and a full transfer of all policies of insurance on the buildings
33 upon the land covered by the statutory housing restriction at the time of such sale.

34 Section 17C. Meaning of "Statutory Housing Condition".

The following "condition" shall be known as the "Statutory Housing Condition", and may be incorporated in any deed, covenant or restriction by reference:

The grantor intends, declares, and covenants on behalf of the grantor and grantor's heirs, successors and assigns that the grantor and the grantor's heirs, successors and assigns shall:

(a) occupy the dwelling unit on the statutory housing premises as the principal residence of the grantor and the grantor's eligible household;

(b) pay and discharge when due and payable all debts secured by the statutory housing premises, including without limitation taxes, mortgages and other voluntary liens, and judgments and other involuntary liens, and reimburse the holder on demand for all amounts paid by the holder to discharge such debts with interest thereon until reimbursement at the rate applicable to damages in actions for breach of contract obligations.

(c) not encumber the statutory housing premises or any portion thereof in an amount in excess of their affordable value, nor convey, transfer or otherwise dispose of the statutory housing premises or any portion thereof other than as statutory housing premises; and

(d) upon disposition, convey any fee interest in the statutory housing premises only to one or more members of an eligible household approved in writing by the holder for consideration not exceeding the affordable value thereof at the time of the conveyance; provided however that a continuing or newly acquired ownership, with continued occupancy as principal residence during his or her lifetime, by the surviving spouse of a qualified owner in the eligible household who resided at said statutory housing premises as his or her last principal residence prior to the qualified owner's death, without regard to the surviving spouse's income, shall not constitute a breach of this condition.

Section 17D. Meaning of "Statutory Housing Power to Sell".

The following "power" shall be known as the "Statutory Housing Power to Sell", and may be incorporated in any deed, covenant or restriction by reference:

But upon any default in the performance or observance of the foregoing or other condition reasonably related to maintaining the premises as statutory housing premises, the holder or its successors or assigns may sell the statutory housing premises or such portion thereof as may remain subject to the statutory housing restriction, together with all improvements that may be thereon, by deed, first complying with the statutes relating to the holder's sale of statutory housing premises by the exercise of the statutory housing power to sell, and may convey the same by proper deed or deeds to the purchaser or purchasers absolutely and in fee simple but subject always to the statutory housing covenants, on the statutory housing condition and with the statutory housing power to sell; and such sale shall forever bar the grantor and all persons claiming rights of fee simple ownership under the grantor or claiming mortgages or other liens against the statutory housing premises in excess of such affordable value from all right and interest in said statutory housing premises, whether at law or in equity.

Section 17E. Definitions Related to Statutory Form of Housing Restriction.

Affordable Value Defined The "Affordable Value" of the statutory housing premises under the statutory housing condition and the statutory housing power to sell, unless otherwise defined in the restriction, shall be equal to the consideration paid for the said premises by the eligible household owning said premises subject to the statutory housing restriction adjusted in proportion to any increase of the area median income from the date the eligible household acquired said premises to the date next preceding the sale for which such information is publicly available. In a restriction stating an alternate means of determining the value of the statutory housing premises, affordable value shall be the amount determined as stated in that restriction.

Area Median Income Defined "Area median income" means the median income for the standard metropolitan statistical area or equivalent area for the statutory housing premises_in which the statutory

housing premises are located, adjusted for household size, published by the United States Department of Housing and Urban Development, or such other standard adopted by the Massachusetts Department of Housing and Community Development to measure individual and household incomes in Massachusetts.

Eligible Household Defined "Eligible household" means the owner and all persons residing together with the owner at the statutory housing premises and whose household income determined in connection with the acquisition of said statutory housing premises did not exceed the maximum household income established by the holder at the time of such acquisition as stated in the deed, covenant or restriction restricting the statutory housing premises, or if no maximum household income is stated in a deed, covenant or restriction, did not exceed 80% of the area median income, adjusted for the number of individuals in the eligible household. The term "grantor" includes any person granting a restriction on the statutory housing condition and with the statutory housing power to sell, and also any individual acquiring the premises subject to such a restriction previously granted.

Household Income Defined "Household income" means the aggregate combined gross income of all members of a household under standards established by the United States Department of Housing and Urban Development, or such other standards established by the Massachusetts Department of Housing and Community Development to measure individual and household incomes in Massachusetts.

Statutory Housing Premises Defined "Statutory housing premises" means residential real property subject to a statutory housing restriction.

Statutory Housing Restriction Defined "Statutory housing restriction" means a restriction containing the statutory housing covenants, the statutory housing condition or the statutory housing power to sell.

Section 17F. Entities Eligible to be Holder of Statutory Housing Restriction.

The entities eligible to be a holder of a statutory housing restriction shall be a governmental body or any agency thereof, nonprofit organizations, churches, employers, universities or ~~or~~ entities that are otherwise

administering government sponsored, federal, state, or local subsidy programs, and any other entity so authorized by the Massachusetts Department of Housing and Community Development (or any successor agency); provided, however, that no restriction granted on the statutory housing power to sell shall be invalid by reason of being held by other than an eligible entity provided that it is assigned to an eligible entity prior to exercise of the statutory housing power to sell. "Governmental body", as referred to in this section means the United States or the commonwealth, acting through any of its departments, divisions, commissions, boards or agencies, or any political subdivision or public instrumentality thereof or any public authority or any quasi-public entity or any instrumentality created pursuant to chapter forty F, whether acting for its own account, or as agent or designee for or assignees of any private individual or private entity which has been required to place such restriction in its chain of title as a condition to receiving financial or other assistance from the United States or the commonwealth.

A city or town, acting, for cities, by the mayor, unless otherwise provided by charter, ordinance, or vote of the city council, and for towns, by the board of selectmen, unless otherwise provided by charter, bylaw, or vote of the town, may acquire by gift, purchase, grant, bequest, devise, lease or otherwise a statutory housing restriction on real property resulting from regulatory action or funding by the city or town, or otherwise authorized by the city or town, and shall have authority to hold and exercise all the holder's rights, including the authority to acquire and re-convey the real property as statutory housing premises, and otherwise administer and enforce the statutory housing restriction.

Section 17G. Holder's Obligation to Issue Affordable Value Certificate.

On written notice from any owner of statutory housing premises, or from any mortgagee, proposed mortgagee or other person holding a lien on said premises, the holder shall state in writing the affordable value of the statutory housing premises as of the nearest date for which such determination can be made from public record and such other facts known to the holder necessary to establish whether the owner or other person is in compliance with the statutory housing restriction, and such certificate shall be

conclusive as to any mortgagee or other person relying thereon and providing value to the owner within the affordable value or transferring the property pursuant to the statutory housing restriction. The holder may charge a reasonable fee for providing said certificate.

Section 17H Term. Termination of Statutory Housing Restriction.

A statutory housing restriction shall continue until terminated by agreement of the holder, or by legislative or judicial action, or otherwise according to law unless a term of years is stated in the restriction. On termination of a statutory housing restriction for any reason prior to expiration of its term, and after payment of the affordable value to the owner, mortgagees and other lien holders according to the priority established by law, the holder (and no other person) shall be entitled to receive the difference between the affordable value of the statutory housing premises immediately before termination (regardless of the remaining term of the statutory housing restriction) and the fair market value of those premises immediately after termination. Such amount shall be considered a first priority lien in the event that the statutory housing restriction is terminated by judicial action in a bankruptcy proceeding.

The statutory housing covenants, statutory housing condition and statutory housing power to sell shall not be subject to section 23 and sections 26 through 30 of chapter 184 and shall have the benefits of section 32 of chapter 184 without approval otherwise required thereunder, but all non-statutory provisions of a statutory housing restriction shall remain subject to section 23 and sections 26 through 30 and shall have the benefits of section 32 only if approved as stated therein.

Section 17I. Effect of Mortgage or Other Foreclosure or Sale on Statutory Housing Restriction.

Unless otherwise agreed in an instrument appearing of record, following a mortgagee's foreclosure by a regulated for-profit, not-for-profit or governmental mortgagee holding a first mortgage on statutory housing premises which was subordinate to a statutory housing restriction, only the statutory housing covenants, the statutory housing condition and the statutory housing power to sell, to the extent

appearing in the statutory housing restriction, shall continue in effect binding the statutory housing premises and all other provisions of the restriction shall be extinguished.

Section 17J. Ownership of Statutory Housing Premises by Holder, Mortgagee or Other Lien Holder.

Ownership of statutory housing premises, either by the executor or administrator of an owner in an eligible household, or by the holder or by a mortgagee or other lien holder, or its designee, or by any entity eligible to be a holder of a statutory housing restriction, pursuant to exercise of lawful remedies against the owner, shall not constitute a violation of the statutory housing covenants or the statutory housing condition so long as the premises are being held for re-sale to, and are re-sold to, an eligible household as statutory housing premises for an amount not exceeding the affordable value, provided that said premises may not be rented, leased or otherwise occupied by a household that is not an eligible household during the period in which said premises are being held for re-sale.

Appendix to G.L. c 183

The following new forms 17, 18, 19, 20, 21, 22 and 23 are added to the Appendix Statutory Forms of Instruments Relating to Real Estate following chapter 183:

(17) Deed with Statutory Housing Restrictions ----- of -----, ----- County, ----- for consideration of ----- dollars paid, grant to ----- of ----- with quitclaim covenants and with statutory housing covenants, upon the statutory housing condition, for any breach of which the holder shall have the statutory housing power to sell the land in ----- (description and encumbrances, if any). Witness ----- hand and seal this ----- day of ----- (Here add acknowledgment.)

(18) Statutory Housing Restriction of -----, ----- County, ----- for consideration paid, grant to ----- of ----- with statutory housing covenants, the land in ----- (description and encumbrances, if any) upon the statutory housing condition, for any breach of which the holder shall have the statutory housing power to sell. Witness ----- hand and seal this ----- day of ----- (Here add acknowledgment.)

174 (19) Extension of Statutory Housing Restriction -----, holder of a statutory housing ~~covenant~~ restriction
175 by ----- to ----- dated ----- recorded ----- with ----- Deeds, book -----, page -----, and -----
176 -- owner of the equity of redemption of the premises, agree each for ----- sel -----, heirs,
177 representatives and assigns, that the term of said housing restriction is hereby extended to -----, and said
178 owner agrees to perform and observe the condition and covenants of said housing restriction as so
179 extended. Witness ----- hand and seal this ----- day of ----- . (Here add acknowledgment.)

180 (20) Assignment of Statutory Housing Restriction. ----- holder of a statutory housing restriction from ---
181 ---- to ----- dated ----- recorded with ----- Deeds, book -----, page -----, assign said statutory
182 housing restriction to ----- . Witness ----- hand and seal this ----- day of ----- . (Here add
183 acknowledgment.)

184 (21) Statutory Deed under Statutory Housing Power to Sell. ----- holder of a statutory housing
185 restriction from ----- to ----- dated ----- recorded with ----- Deeds, book -----, page -----, by
186 the power conferred by said housing restriction and every other power, for ----- dollars paid, grant to ---
187 ---- the premises conveyed by said housing restriction, subject to said housing restriction and also to
188 (description and encumbrances, if any) upon the statutory housing condition, for any breach of which the
189 holder shall have the statutory housing power to sell. . Witness ----- hand and seal this ----- day of ---
190 ---- . (Here add acknowledgment.)

191 (22) Termination of Statutory Housing Restriction -----, holder of a statutory housing restriction
192 from ----- to ----- dated ----- recorded with ----- Deeds, book -----, page -----, releases the
193 same. Witness ----- hand and seal this ----- day of ----- . (Here add acknowledgment.)

194 (23) Affidavit of Sale under Statutory Housing Power to Sell ----- named in the foregoing deed, make
195 oath and say that the statutory housing restriction was breached, and that I published on the ----- day of
196 ----- 20-----, in the -----, a newspaper published or by its title page purporting to be published in ---
197 ---- aforesaid and having a circulation therein, a notice of which the following is a true copy: -----

(Insert advertisement.) ----- Pursuant to said notice at the time and place therein appointed, I sold the premises in accordance with the statutory housing power to sell, for ----- dollars, being not in excess of the Affordable Value therefor. Witness ----- hand and seal this ----- day of ----- (Here add jurat.)

(24) Certificate of Compliance under Statutory Housing Power to Sell -----, holder of a statutory housing restriction from ----- to ----- dated ----- recorded with ----- Deeds, book -----, page -----, states that a) ----- is a member of an eligible household with respect the residential real property described in the restriction who are obligated to occupy those statutory housing premises as their principal residence, b) the present affordable value of said property is [insert affordable value] and c) to the best of the undersigned's knowledge and belief the owner is otherwise in compliance with said restriction. Witness ----- hand and seal this ----- day of ----- (Here add jurat.))

SECTION 2. The General Laws are hereby amended by inserting after chapter 244 the following new chapter 244A:

General Laws Chapter 244A. Foreclosure and Redemption of Statutory Housing Restrictions

Section 1. Exercise of Statutory Housing Power to Sell The statutory housing power to sell shall be governed by the provisions of this Chapter 244A.

Foreclosure by Sale

Section 2 Foreclosure under statutory housing power to sell; procedure; notice; form.

The holder of a statutory housing restriction with respect to statutory housing premises or the attorney duly authorized by a writing under seal by the holder acting in the name of such holder may, upon breach of condition and without action, do all the acts authorized or required by the power to convey said premises as statutory housing; but no sale under such power shall be effectual to foreclose the statutory housing restriction and convey statutory housing premises, unless, previous to such sale, notice thereof has been given by registered mail to the owner or owners of record of the equity of redemption in

the statutory housing premises as of ninety days prior to the sale, at the premises and also to any other address of such owner or owners appearing on the records of the holder, not less than three times at intervals of not less than seven days, beginning not later than sixty days prior to the date of sale and ending not later than thirty days prior to the date of sale, and notice thereof has been published once in each of three successive weeks, the first publication to be not less than twenty-one days before the day of sale, in a newspaper, if any, published in the town where the land lies or in a newspaper with general circulation in the town where the land lies, and notice has been given by registered mail to the owner or owners of record of the statutory housing premises as of thirty days prior to the date of sale, said notice to be mailed at least fourteen days prior to the date of sale to said owner or owners to the address set forth in section sixty-one of chapter one hundred and eighty-five, if the land is then registered or, in the case of unregistered land, to the last address of the owner or owners of the equity of redemption appearing on the records of the holder of the statutory housing restriction, if any, or if none, to the address of the owner or owners as given on his deed or on the petition for probate by which he acquired title, if any, or if in either case no address appears, then to the address to which the tax collector last sent the tax bill for the statutory housing premises to be sold, or if no tax bill has been sent for the last preceding three years, then to the premises and unless a copy of said notice has been sent by registered mail to all mortgagees and other persons of record as of thirty days prior to the date of sale holding an interest in the property being foreclosed, said notice to be mailed at least fourteen days prior to the date of sale to each such person at the address of such person set forth in any document evidencing the interest or to the last address of such person known to the holder. Any person of record as of thirty days prior to the date of sale holding an interest in the property being foreclosed may waive at any time, whether prior or subsequent to the date of sale, the right to receive notice by mail to such person under this section and such waiver shall be deemed to constitute compliance with such notice requirement for all purposes. If no newspaper is published in such town, or if there is no newspaper with general circulation in the town where the land lies, notice may be published in a newspaper published in the county where the land lies, and this provision shall be implied in every restriction containing the statutory housing power to sell in

which it is not expressly set forth. A newspaper which by its title page purports to be printed or published in such town, city or county, and having a circulation therein, shall be sufficient for the purpose.

The following form of notice may be used and may be altered as circumstances require; but nothing herein shall be construed to prevent the use of other forms.

(Form.)

STATUTORY HOUSING RESTRICTION HOLDER'S POWER TO SELL

By virtue and in execution of the statutory housing power to sell contained in a certain statutory housing restriction given by _____ to _____ dated _____ and recorded with _____ Deeds, Book _____, page _____, of which housing restriction the undersigned is the present holder,

(If by assignment, or in any fiduciary capacity, give reference.)

for breach of the conditions of said housing restriction and for the purpose of the foreclosing and conveying same, whether directly or through an intermediary qualified to hold statutory housing restrictions, to an eligible household as their principal residence, will be sold by (specify either Public Auction or Sale to the Holder or its Designee) at _____ o'clock, __.M. on the _____ day of _____ A.D. (insert year), at _____ (insert place) all and singular the premises described in said housing restriction, subject to the statutory housing covenants, statutory housing condition and statutory housing power to sell contained therein,

To wit: "(Description as in said housing restriction , including all references to title, restrictions, encumbrances, etc., as made in said housing restriction)"

having an affordable value of \$_____ : (State the amount of the affordable value)

Terms of sale: (State here the amount, if any, to be paid in cash by the purchaser at the time and place of the sale, and the time or times for payment of the balance or the whole as the case may be.)

269 Other terms to be announced at the sale.

270 (Signed)

271 Present holder of said housing restriction

272 A notice of sale in the above form, published in accordance with the statutory housing power to sell in the
273 statutory housing restriction and with this chapter, together with such other or further notice, if any, as is
274 required by the statutory housing restriction, shall be a sufficient notice of the sale; and the statutory
275 housing premises shall be deemed to have been sold, and the deed thereunder shall convey said premises,
276 subject to and with the benefit of the statutory housing covenants, on the statutory housing condition and
277 with the statutory housing power to sell (but no other provisions of any housing restriction applicable to
278 said premises) and also subject to and with the benefit of all other restrictions, easements, improvements,
279 outstanding tax titles, municipal or other public taxes, assessments, liens or claims in the nature of liens,
280 and existing encumbrances of record to the extent they secure debt, whether created prior or subsequent to
281 the statutory housing restriction, that in the aggregate do not exceed the affordable value at the time of
282 sale and are not paid at sale, whether or not reference to such restrictions, easements, improvements, liens
283 or encumbrances is made in the deed; but no purchaser at a sale by public auction shall be bound to
284 complete the purchase if there are encumbrances which will remain following such payment at sale, other
285 than those included in the notice of sale, which are not stated at the sale and included in the auctioneer's
286 contract with the purchaser.

287 Exercise of the statutory housing power to sell may be by public auction or purchase by the
288 holder as follows:

289 a) In the case of sale at public auction, bidding shall be capped at the affordable value and if more
290 than one qualified bidder has bid the affordable value, the premises shall be sold to such of those bidders
291 as is selected by chance.

b) Any purchase of the premises by the holder or its designee pursuant to exercise of the statutory housing power to sell, in lieu of sale by public auction, shall be for the affordable value. The holder may assign its right to acquire the premises at the affordable value to an eligible household appearing on a list of eligible households established for the purpose or maintained by or utilized by the holder generally. The eligible household shall be selected by chance or, if the holder so determines, by seniority.

All proceeds from exercise of the statutory housing power to sell shall be paid to mortgagees and other lien holders appearing of record immediately prior to exercise of the power according to their rights of priority, and any amount remaining shall first be paid to the holder as reimbursement of the holder's reasonable expenses of exercising the power and thereafter be paid to the owner. Any lien on the premises which, in the aggregate with senior liens, exceeds the proceeds from exercise of the statutory housing power to sell shall be extinguished by exercise of the statutory housing power to sell to the extent it exceeds the proceeds of exercise of the power.

The provisions of section 15 of chapter 244, substituting statutory housing restriction for mortgage deed and statutory power to sell for power of sale, shall apply in case of foreclosure by sale under this section.

A holder conveying title to statutory housing premises pursuant to the provisions of this chapter shall, within thirty days of conveying title, notify all residential tenants of said premises, and the office of the assessor or collector of taxes of the municipality in which the premises are located and any persons, companies, districts, commissions or other entities of any kind which provide water or sewer service to the premises, of said conveying title.

Redemption

Section 4. Redemption. An owner of statutory housing premises under the terms of a statutory housing restriction may, after breach of the statutory housing condition, have redemption in the manner prescribed in and subject to sections 18, 19, 22, 23, 24, 25, 26, 27 and 32 of chapter 244, substituting owner for

mortgagor, holder for mortgagee, statutory housing power to sell for power of sale, restriction or restricted for mortgage or mortgaged and performance under the restriction for amount due on the mortgage, provided a) the person entitled to redeem shall perform or tender performance of every condition contained in the restriction; and if there has been an action to recover the property, shall pay or tender the costs of such action if unpaid; b) the tender shall be made before a sale pursuant to the statutory power to sell contained in the restriction and if in compliance with the terms of the restriction shall be accepted by the holder and c) following redemption the property shall continue to be subject to the statutory housing restriction.

Conforming Amendments

SECTION 3. The first sentence of the third paragraph of section 32 of chapter 184 of the General Laws is amended by inserting after each occurrence of the word “state” the words “or municipal”.

SECTION 4. Chapter 244 of the General Laws is hereby amended by adding the following new section 14A:

Section 14A. Foreclosure under Power of Sale on Property Subject to Statutory Housing Restriction or other Affordable Housing Restriction

In the case of sale by foreclosure under the power of sale in a mortgage of a property subject to a statutory housing restriction, statutory housing condition or statutory housing power to sell or other affordable housing restriction as defined in section 31 of chapter 184 which will remain in effect following foreclosure, the property may, if the mortgagee so determines, be auctioned only to eligible households as defined in section 17E of chapter 183 (together with the mortgagee or its designee and the holder of the housing restriction or its designee or any entity eligible to be a holder of a statutory housing restriction) for an amount not exceeding the affordable value applicable to the property, in which event if more than one eligible household or entity qualified as a bidder has bid at or in excess of the affordable

value, then bidding shall be capped at the affordable value and the bidder to whom the property is sold shall be selected by chance from among those bidding who are willing to pay the affordable value.

In lieu of conducting bidding, the mortgagee may elect to sell the property at the affordable value by lottery that includes all eligible households who have been qualified to bid for the property at the public auction. At the request of the mortgagee, the holder shall confirm the status as members of an eligible household or as an entity eligible to be a holder of a statutory housing restriction of any persons or entities identified to it by the mortgagee.

If the holder of the restriction tenders the affordable value, then the premises shall be sold to the holder.

SECTION 5. Chapter 236 of the General Laws is hereby amended by adding the following new second paragraph section 27:

When selling a property subject to a statutory housing restriction under section 17A of chapter 183 or other affordable housing restriction as defined in section 31 of chapter 184 which will remain in effect following foreclosure, the officer may instead make the sale and convey by deed either:

a) by public auction only among eligible households as defined in section 17E of chapter 183 (together with the holder of the housing restriction or its designee or any entity eligible to be a holder of a statutory housing restriction) for an amount not exceeding the affordable value applicable to the land, in which event if more than one eligible household or entity qualified as a bidder has bid at or in excess of the affordable value, then bidding shall be capped at the affordable value and the bidder to whom the property is sold shall be selected by chance from among those bidding willing to pay the affordable value; or

(b) if the holder of the restriction tenders the affordable value, then by deed to the holder.

SECTION 6. Section 1(b) of chapter 30B of the General Laws is hereby amended by adding the following new subsection (35):

363 (35) Contracts or other actions to acquire or dispose of statutory housing premises as defined in
364 section 17E of chapter 183, including exercise of the statutory housing power to sell, following which the
365 statutory housing restriction continues in force and effect as to the premises as before shall be exempt
366 from the provisions governing disposition of real estate under Chapter 30B.

367 **SECTION 7.** Chapter. 183 of the General Laws is hereby amended by adding the following
368 new section 22A:

369 Section 22A. Protecting Public Investment.

370 No restriction that has been purchased with state or municipal funds or which has been granted in
371 consideration of a loan or grant made with state or municipal funds shall be released unless it is
372 repurchased by the land owner at its then current fair market value.